## The Village of Hoosick Falls Agreement with Saint-Gobain and Honeywell: A Summary and Frequently Asked Questions of the Current Agreement

The Hoosick Falls Village Board has finalized a voluntary agreement with Saint-Gobain Performance Plastics ("SGPP") and Honeywell International ("Honeywell") to cover costs and losses associated with the Village's response to the PFOA water crisis. This agreement protects local taxpayers by ensuring Village expenses are reimbursed and lost revenues are replenished, without the necessity of borrowing money.

In its current form, the agreement specifies that the companies will pay the Village \$850,000 to cover, among other items, water monitoring and analysis, flushing Village water lines and associated repairs of several hydrants, losses the Village incurred from reduced water and sewer usage, and engineering, legal and public relations consulting fees.

The current agreement prevents the Village from suing the companies in the future for PFOA contamination of the three existing groundwater wells that supply water to the Village water treatment plant, under their current configuration, and associated water distribution equipment. If additional contamination of these wells or the water treatment plant arises in the future, SGPP and Honeywell would be required to address these circumstances under the Consent Orders they signed with New York State in June 2016 or a new or amended Order. A new agreement with the Village also would be required.

The current agreement does not prevent the Village from suing the companies for PFOA contamination found at other locations in the Village, for additional groundwater wells that may become impacted, for contamination of the local aquifer, for all other non-PFOA contaminants and for third-party lawsuits that identify the Village as a defendant.

Below is a summary of some of the comments received, with responses provided by the Village's special counsel.

Concern #1: The Village didn't get enough money from SGPP and Honeywell.

Answer: The Village Board and staff carefully assessed actual costs, expension

The Village Board and staff carefully assessed actual costs, expenses and losses incurred by the Village in response to the PFOA contamination. Theoretical or undefined losses are not a part of the agreed-upon reimbursement. However, the current agreement does not prevent the Village from negotiating with the companies for future costs and losses. And, under the state Consent Order, the companies are obligated to spend millions of dollars to investigate, abate and

monitor PFOA.

Concern #2: The current agreement allows SGPP and Honeywell to sue the Village under

certain circumstances.

Answer: The companies could conceivably sue the Village for faulty operation of the

water treatment plant, which contributed to the distribution of contaminated water. However, the Village has many defenses against such a claim, not the

least of which is that the source of the contamination can be directly traced to the McCaffrey Street and Liberty Street facilities, at a minimum. In addition, state and federal regulators did not recognize PFOA as a hazardous substance, nor were they requiring any testing to establish its presence and concentrations.

Concern #3:

The Village gave away its rights to sue the polluters. The agreement prevents the Village from ever filing future claims against the two companies.

Answer:

The current agreement does not prevent the Village from filing future claims against the two companies, except for damages related to contamination of the three existing groundwater supply wells currently in operation and the associated water distribution equipment. Should PFOA contamination be found elsewhere in the Village, or if some other type of contamination is identified in the wells or at the water treatment plant, the Village has preserved all its rights to sue the companies. In all likelihood, such an event would trigger a new or revised Consent Order with New York State.

Concern #4:

Why provide a release to the companies for the PFOA contamination of the existing wells and water distribution equipment?

Answer:

The companies have already addressed contamination of the wells and water treatment plant by installing a carbon filter treatment system at the plant, which NYSDOH has demonstrated is effectively removing PFOA from the municipal water supply to a consistent level of non-detect. If maintenance or repairs to this treatment system are needed, or if new equipment is needed to assure levels of PFOA are not elevated, the companies would be required to implement response actions under the Consent Order with New York State.

Concern #5:

There is no indemnification in the current agreement for the Village. It restricts the Village from seeking reimbursement for future costs or losses associated with PFOA.

Answer:

The current agreement does nothing of the kind. It provides indemnification for the Village and the agreement does not restrict the Village from seeking additional reimbursement for future costs or losses associated with PFOA from SGPP, Honeywell or any third party.

Concern #6:

The agreement does not include an admission by the companies that they are responsible for the PFOA contamination of the municipal water supply.

Answer:

New York State has identified SGPP and Honeywell as principally responsible parties ("PRPs") for PFOA contamination at the Hoosick Falls water treatment plant. The investigation into the source or sources of PFOA contamination is well underway and receiving considerable expedited attention. It is possible that additional PRPs and sources of contamination may be identified. It is unrealistic to expect the companies to admit liability beyond their actions to date.

Concern #7: This agreement does not require the companies to bear all future water

treatment operation and maintenance costs, including further abatement efforts

if additional contamination is discovered.

Answer: The Consent Order the companies signed with New York State requires them to

bear all future water treatment operation and maintenance costs associated with the long-term carbon filtration system, including additional abatement measures if other contaminants are discovered. It is not necessary for this

agreement to specify the same.

Concern #8: The reimbursement funds should not be used to pay for the Village's

engineering, legal and PR consultants.

Answer: These consultants assisted the Village in protecting the interests of Village

residents and communicating with the public. They deserve to be paid, and SGPP

and Honeywell agreed.

Concern #9: Doesn't the Consent Order require New York State to negotiate an agreement

with the companies to reimburse the Village for its costs? Maybe New York State

would be able to get a better deal that was has already been negotiated.

Answer: Yes, the Consent Order specifies that NYSDEC will seek cost recovery on behalf of

the Village if an agreement is not reached between the Village, SGPP and

Honeywell. However, it will likely take NYSDEC a long period of time to negotiate such an agreement, requiring the Village to obtain a loan to cover its current expenses and losses, and it is very likely the amount of the reimbursement will

be less.

Concern #10: What if Hoosick Falls sustains additional losses that aren't yet identifiable?

Answer: The current agreement does not prohibit the Village from negotiating additional

reimbursements from the companies.

Concern #11: What if individuals decide to sue the Village for damages related to presently

undiagnosed medical conditions or for losses they incur such as property value

diminution?

Answer: The current agreement provides indemnification for these types of third-party

lawsuits, or any other type of third-party action against the Village.

Concern #12: Did the Village's special counsel seek the advice of other independent legal

counsel on the agreement?

Answer: Yes. They conferred with several private and public sector attorneys with

experience in environmental and land use laws, as well as tort litigation, including attorneys involved in litigation related to remedial sites in the Ohio

Valley.

Concern #13: Did anyone speak with elected officials in other communities experiencing

similar circumstances? Were agreements made there by responsible parties

evaluated for comparison?

Answer: Mayor Borge spoke with journalists and municipal officials in communities in

Alabama, Pennsylvania, West Virginia, New York and New Hampshire. None of these communities had negotiated agreements with responsible parties whereby the responsible parties voluntarily agreed to reimburse the community for lost

revenues and consultant costs.